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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,747	06/29/2001	Toshihiro Tai	FURUYA-CASE-	8626

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EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,747

Applicant(s)

TAI, TOSHIHIRO

Examiner

Katarzyna Wyrozebski Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) 10-15 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other:

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In the light of applicant's amendment filed on May 6, 2003, following final office action has been necessitated.

In view of the amendment the examiner acknowledged cancellations of claims 1-7 and incorporation of new claims 8-20. Claims 10-15 and 19 are withdrawn from prosecution based on original presentation, since these claims refer to non-elected article claims. Shall the composition of the present invention become in condition for allowance, the article claims will be rejoined per interview conducted on 2/10/03. Claims 8-9, 16-18 and 20 are under examination.

Specification

Substitute specification contains grammatical corrections, which do not incorporate new subject matter. The specification will therefore be entered. Also, the applicant per MPEP should include in first couple lines of the specification, priority information of this application.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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2. Claims 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Kuramoto (JP 07149891).

The discussion of the prior art of Kuramoto from paragraph 6 of the office action mailed on 2/20/2003 is incorporated here by reference.

3. Claims 8 and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Koichi (JP 200012948).

The discussion of the disclosure of the prior art of Koichi from paragraph 7 of the office action mailed on 2/20/2003 is incorporated here by reference.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuramoto (JP 07149891) in view of Gareiss (US 6,084,012).

The discussion of the disclosure of the prior art of Kuramoto and Gareiss from paragraph 13 of the office action mailed on 2/20/2003 is incorporated here by reference.

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6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gareiss (US 6,084,012).

The discussion of the disclosure of the prior art of Gareiss from paragraph 14 of the office action mailed on 2/20/2003 is incorporated here by reference.

7. Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koichi (JP 2000129148) in view of Umetsu (US 6,075,114)

The discussion of the disclosure of the prior art of Koichi from paragraph 7 of the office action mailed on 2/20/2003 is incorporated here by reference.

The prior art of Koichi as stated in the previous office action discloses use of flame retardants.

The difference between the present invention and the prior art of Koichi is the combination of the flame retardants utilized in the claimed composition.

The prior art of Umetsu discloses composition comprising polymer of polyesteramide and inorganic filler. The inorganic fillers of the prior art of Umetsu comprise fibers, whiskers and mixtures thereof. The composition is a molding composition, which comprises flame retardant.

The flame retardant of the prior art of Umetsu is red phosphorus and hydrated metal flame retardant.

The prior Umetsu teaches that use of hydrated aluminum or magnesium is beneficial, since presence of hydrated metal prevents oxidation of red phosphorus (col. 8, lines 58-62).

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In the light of the above disclosure it would have been obvious to one having ordinary skill in the art at the time of the instant invention to utilize red phosphorus and hydrated metal flame retardants and thereby obtain the claimed invention. Using metal oxide as flame retardant prevents oxidation.

Response to the Amendment

In the amendment filed on May 6, 2003 the applicant argued the following:

a) The prior art of Iwasaki teaches use of polyester with potassium titanate whiskers and carbon fibers.

In view of the applicant's amendment limiting the present claims to polyamide and styrene polymers the prior art of Iwasaki no longer applied against present claims.

b) The prior art of Kanayama discloses polycarbonate resin or a mixture thereof with polyester with aluminum borate whiskers and glass fibers.

In view of the applicant's amendment limiting the present claims to polyamide and styrene polymers the prior art of Kanayama no longer applied against present claims.

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c) The prior art of Kuramoto discloses lactam with glass fibers and inorganic whiskers and flame retardant.

With respect to the above argument, the polyamide of the prior art of Kuramoto is thermoplastic polyamide see paragraph [001] and [008] of the prior art of Kuramoto. The flame retardant is only limitation in claims 15, 17, 18 and 20, for which addition reference had to be found. Claim 8 has no limitation to flame retardant, therefore the composition of Kuramoto is applicable against claim 8. The process by which they arrive to obtain the polyamide composition, is not part of the claims.

d) The prior art of Koichi does not disclose the criticality of the fibrous filler and the whisker.

With respect to the above argument, the examiner disagrees. Just because the prior art of Koichi does not specifically spell out the importance of the fibers and whiskers, that does not mean they are not important. Mere fact that these two components are utilized together in the amounts that encompass the amounts of the present invention, in itself means that they for one reason or another must be important. Since the amounts and polymers utilized in the prior art of Koichi overlap with those required by the present invention, its effects on the entire composition are viewed as inherent.

e) The prior art of Gareiss does not recognize the criticality of the presence of fibrous filler and whisker together.

With respect to the above disclosure, the prior art of Gareiss is a 103 rejection, which has to render claimed composition as obvious. The prior art of Gareiss meets such obviousness by the fact that the fibrous fillers and whiskers and their mixture are both taught by the prior art disclosure. The applicants have not persuasively argued as to why it would not be obvious to utilize mixture of the fillers, wherein the fillers are both targeted by the prior art to be useful for the same purpose.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

KIWL
July 11, 2003

EDWARD J. CAIN
PRIMARY EXAMINER
GROUP 1500

